

Senate File 2189

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AN ACT

CONFERRING ADDITIONAL ENFORCEMENT AUTHORITY ON THE REAL ESTATE COMMISSION, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 543B.34, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The real estate commission may upon its own motion and shall upon the verified complaint in writing of any person, if the complaint together with evidence, documentary or otherwise, presented in connection with the complaint makes out a prima facie case, request commission staff or any other duly authorized representative or designee to investigate the actions of any real estate broker, real estate salesperson, or other person who assumes to act in either capacity within this state, and may suspend or revoke a license issued under this chapter at any time if the licensee has by false or fraudulent representation obtained a license, or if the licensee or other person assuming to act in the capacity of a real estate broker or real estate salesperson, except for those actions exempt pursuant to section 543B.7, is found to be guilty of any of the following:

Sec. 2. Section 543B.34, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If an investigation pursuant to this section reveals that an unlicensed person has assumed to act in the capacity of a real estate broker or real estate salesperson, the commission may issue a cease and desist order, and may impose a civil penalty of up to the greater of ten thousand dollars or ten percent of the real estate sale price.

Sec. 3. NEW SECTION. 543B.49 INJUNCTIVE RELIEF.

1. In addition to the penalty and complaint provisions of sections 543B.43, 543B.44, and 543B.48, an injunction may be granted through an action in district court to prohibit a person from engaging in an activity which violates the provisions of section 543B.1. The action for injunctive relief may be brought by an affected person. For the purposes of this section, "affected person" means any person directly impacted by the actions of a person suspected of violating the provisions of section 543B.1, including but not limited to the commission created in section 543B.8, a person who has utilized the services of a person suspected of violating the provisions of section 543B.1, or a private association composed primarily of members practicing a profession for which licensure is required pursuant to this chapter.

2. If successful in obtaining injunctive relief, the affected person shall be entitled to actual costs and attorney fees, unless the person suspected of violating a provision of section 543B.1 prevails in any application for permanent injunctive relief. For the purposes of this section, "actual costs" means those costs other than attorney fees which were actually incurred in connection with the action, including but not limited to court and witness fees, investigative expenses, travel expenses, legal research expenses, and other related fees and expenses.

JEFFREY M. LAMBERTI
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2189, Eightieth General Assembly.

3 6 MICHAEL E. MARSHALL
3 7 Secretary of the Senate
3 8 Approved _____, 2004
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3 12 THOMAS J. VILSACK
3 13 Governor